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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,724	04/16/2004	Kyung-Tae Yang	2060-3110	1348

35884 7590 02/13/2008
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EXAMINER

MISLEH, JUSTIN P

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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02/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/826,724

Applicant(s)

YANG ET AL.

Examiner

Justin P. Misleh

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 2, and 4 - 17.
Claim(s) withdrawn from consideration: 18 - 20.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Justin Misleh
Justin Misleh
Examiner, CAU 2622

Continuation of 3. NOTE: New claims 21 and 22 and amended Claim 15 at least require further consideration.

Response to Arguments

1. Applicant's arguments filed February 7, 2008 have been fully considered but they are not persuasive.

Claim 1

2. Applicant states, "Therefore, it is respectfully noted that the Examiner's assertion is not based on the actual disclosure of each element in the cited reference, but is based on the Examiner's constructive disclosure." Applicant additionally states, "It is respectfully submitted that FIG. 3 of Lim is not sufficient to disclose every element included in the means for decelerating, as recited in claim 1, given the lack of any supporting disclosure in the specification". Moreover, Applicant states, "Contrary to the Examiner's belief that Lim provides the necessary elements to anticipate the claim language, it is respectfully asserted that Lim fails to disclose or suggest each element and the relationship between the individual elements recited in claim 1."

3. Applicant's arguments do not address a critical feature of the Examiner's rejection. The Examiner's rejection relied on inherency (see MPEP §2112 [R-3]). In the Final Rejection (mailed November 28, 2007), the Examiner stated, "Based upon the particular axial arrangements of components and the stated capability of '[decreasing] a rotating force generating in the motor 41 and increase torques to rotate an output terminal (s1)' and 'rotating force of the motor 41 is delivered to the camera 50 connected to the output terminal (s1) and accordingly it rotates the camera 50 in the forward or backward direction', the Examiner sees no other way to provide such capability other than to provide within the decelerator (42) the claimed 'drive gear', 'deceleration gear', 'deceleration rotational axle', and a 'transmission gear'. For the instance,

the motor (41) output shaft coupled with the decelerator (42) would operatively form 'a drive gear' and the decelerator (42) output terminal (s1) coupled with the camera (50) would operatively form 'a deceleration gear'. Of course, since the torque is being changed a 'certain [gear] ratio' is inherently provided. And finally, the actual mechanism for changing the torque would operatively form 'a transmission gear'" (see paragraph spanning page 5 and 6).

4. Applicant's statements do not acknowledge the Examiner's reliance on inherency, do not deny the Examiner's conclusion regarding the inherency, and certainly do not explain why the inherent components do not necessarily have to be present within the reference.

5. For these reasons, the rejection of Claim 1 will be maintained.

Claims 5 – 7 and 10

6. Applicant argues, "It is respectfully submitted that the bushing 42 and the elastic subpart 44 in the Kang invention have a cylindrical or ring-type structure and they are not directly coupled to any axle"; "neither the bushing 42 nor the elastic subpart 44 in the Kang invention is directly formed on a camera case as in the presently claimed invention"; "The frictional plate in the presently claimed invention may be in a circular shape in contrast to the Kang invention"; and "as shown in Fig. 4 of the present application, the fixation ring of the presently claimed invention is not in contact with or closely located to the camera module" (see Remarks, filed September 5, 2007, see last full paragraph on page 8; paragraph spanning pages 8 and 9; and first full paragraph on page 9).

7. Applicant's arguments are not persuasive. The features argued by Applicant are features of the invention; however, those features are not claimed as they are argued. There is nothing

claimed regarding the frictional plate being circular-shaped or being formed on the camera case or the proximity of the fixation ring to the camera module.

8. For these reasons, the rejection of Claims 5 – 7 and 10 will be maintained.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Justin P. Misleh/
Examiner, GAU 2622
February 12, 2008